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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

JESUSA LLANES,

Case No. 3:18-cv-00267-SB

Plaintiff,

v.

ANDREA ZALEWSKI, an individual, and
SILVER RIDGE ADULT FOSTER CARE
HOME LLC, an Oregon limited liability
company,

**DECLARATION OF ANDREA
ZALEWSKI IN SUPPORT OF
DEFENDANTS ANDREA ZALEWSKI'S
AND SILVER RIDGE ADULT FOSTER
CARE HOME LLC'S MOTION FOR
SUMMARY JUDGMENT AND
MEMORANDUM IN SUPPORT**

Defendants.

I, Andrea Zalewski, declare:

1. I am one of the defendants in this matter. The following statements are true and correct and, if called upon, I could competently testify to the facts averred herein.
2. I own Silver Ridge Adult Foster Care Home LLC ("Silver Ridge"). I do not own the property or house in which Silver Ridge operates. Silver Ridge is an adult foster care home

that provides room and board for its five residents. Silver Ridge also provides meals, general housework, and reminders to take medications to its residents.

3. Here is a photo of Silver Ridge—it is the house with the black shutters.



4. Oregon classifies Silver Ridge as a Class 2 foster care facility. The State determines the class of foster care facility by the resident’s impairments in the activities of daily living (“ADL”).¹ The six ADLs refer to everyday functions: eating/nutrition, dressing, personal hygiene, toileting, mobility, and behavior management. Class 2 facilities can take residents who need assistance in any ADLs but *cannot* take residents who require full assistance in more than three ADLs. There is no requirement that a Class 2 facility, such as Silver Ridge, employ any type of medical professional.

¹ Oregon Department of Human Services, Overview of Adult Foster Home Program, available at <https://www.oregon.gov/DHS/PROVIDERS-PARTNERS/LICENSING/APD-AFH/Pages/Overview.aspx> (last visited Apr. 26, 2019).

5. Silver Ridge does not offer any medical services. It does not employ any doctors, nurse practitioners, registered nurses, or other similar medical professions. I am a licensed practical nurse (“LPN”), but I do not use my LPN skills at Silver Ridge. Residents must leave the facility to receive medical, psychiatric, and dental treatment.

6. Silver Ridge is a small business that operates only in Oregon. I registered it as a limited liability company with the Oregon Secretary of State in 2009.² The business makes approximately \$180,000 in gross income per year entirely from monthly payments made by its five residents.

7. I own and operate Silver Ridge. I am the sole owner of the business, but do not own the house. I operate the business with only one other employee, a Resident Manager. In 2014, I hired Jesusa Llanes as the Resident Manager.

8. Because of the unpredictable nature of a Resident Manager’s hours, it is nearly impossible to track hours worked. In addition, it would be cost prohibitive to pay an hourly rate. As a result, I have always structured that role as a salaried position.

9. While Llanes was employed, I took my role as an employer seriously, attempting to follow all laws I thought applicable. Before, during, and after Llanes’s employment I worked with the Bureau of Labor and Industries (“BOLI”) to ensure I was and am compliant with Oregon’s wage and hour laws. Silver Ridge does not have a dedicated human resources department. I was unaware that federal wage and hour laws differed from state laws.

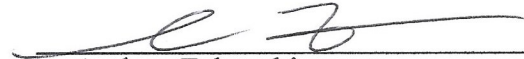
10. Llanes worked as Silver Ridge’s Resident Manager from 2014 to 2017. Her duties included laundry, meal preparation, assistance with ADLs, and document when medication was administered to patients. She also bought food and household basics from local stores.

11. Llanes did not inform me that her boyfriend Dan Gallagher was living at Silver Ridge with her. When I found out, I tried to evict Llanes.

² See http://egov.sos.state.or.us/br/pkg_web_name_srch_inq.show_detl?p_be_rsn=1372073&p_srce=BR_INQ&p_print=FALSE.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED this 30th day of April, 2019.



Andrea Zalewski
Defendant

861707

**DECLARATION OF ANDREA ZALEWSKI IN SUPPORT OF DEFENDANTS
ANDREA ZALEWSKI'S AND SILVER RIDGE ADULT FOSTER CARE HOME
LLC'S MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM IN
SUPPORT**

ATTORNEY CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2019, I have made service of the foregoing
DECLARATION OF ANDREA ZALEWSKI IN SUPPORT OF DEFENDANTS ANDREA ZALEWSKI'S AND SILVER RIDGE ADULT FOSTER CARE HOME LLC'S MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM IN SUPPORT on the party/ies listed below in the manner indicated:

Jon M. Egan
Jon M. Egan, PC
547 Fifth Street
Lake Oswego, OR 97034-3009

- ☒ U.S. Mail
- ☐ Facsimile:
- ☐ Hand Delivery
- ☐ Overnight Courier
- ☐ Email:
- ☐ Electronically via USDC CM/ECF system

DATED this 30th day of April, 2019.

s/ Vivek Kothari
Vivek Kothari, OSB #182089
Attorney for Defendants

CERTIFICATE OF SERVICE